

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY



(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 27 OCT 2005

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Applicant's or agent's file reference	<b>FOR FURTHER ACTION</b> See Form PCT/PEA/416	
International application No. PCT/EP2004/012755	International filing date (day/month/year) 10.11.2004	Priority date (day/month/year) 04.12.2003
International Patent Classification (IPC) or national classification and IPC A23C9/00, A23C9/15, A23J7/00, A23D7/015, A23D9/007, B01F3/08		
Applicant UNILEVER N.V. et al.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>		
Date of submission of the demand  06.06.2005	Date of completion of this report  26.10.2005	
Name and mailing address of the International preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Georgopoulos, N  Telephone No. +49 89 2399- 	

**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/EP2004/012755

**Box No. I Basis of the report**

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

**Description, Pages**

1-15 as originally filed

**Claims, Numbers**

1-10 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-10
Inventive step (IS)	Yes: Claims	
	No: Claims	1-10
Industrial applicability (IA)	Yes: Claims	1-10
	No: Claims	

2. Citations and explanations (Rule 70.7):

**see separate sheet**

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**Box No. VII Certain defects in the international application**

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The following defects in the form or contents of the international application have been noted:

**see separate sheet**

**Item V**

- 1 Reference is made to the following documents:

D1: WO-A-02 065859  
D2: WO-A-99 39586  
D3: EP-A-1 197 153  
D4: US-A-5 063 074 A

- 2 The present application does not meet the criteria of Article 33 (1) PCT, because the subject-matter of present independent claims 1 and 10 as well as that of present dependent claims 2-9, is not novel in the sense of Article 33 (2) PCT.
- 2.1 D1 anticipates the subject-matter of present claims 1-10 (see page 3, paragraph 2; page 10, paragraphs 3-4; examples 1, 2; claims 1, 5, 8-12, 17 and 20 of D1), D2 anticipates the subject-matter of present claims 1, 4, 5 and 10 (see page 1, lines 2-13; page 4, line 1 - page 5, line 14; page 14, line 27 - page 16, line 4; claims 1-4 of D2), D3 anticipates the subject-matter of present claims 1, 2 and 7 (see [0023] - [0027]; example 6; claims 1, 4 and 10 of D3) and D4 anticipates the subject-matter of present claims 1, 3-6 and 10 (see column 1, lines 51-62; example 1; claim 1 of D4).
- 3 The subject-matter of present claims 1-10 is susceptible of industrial application in the field of food industry (Art.33 (4) PCT).

**Item VII**

- 4 Contrary to the requirements of Rule 5.1 (a) (ii) PCT, the relevant background art disclosed in the documents D2 and D4 is not mentioned in the description, nor are these documents identified therein.
- 5 The expression "non limiting" (see page 13, line 1 of the present description) contravenes Rule 9 (1) (iv) PCT.